

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

CHRISTOPHER O'NEILL,	)	3:12-cv-00030-LRH-WGC
	)	
Plaintiff,	)	<b><u>MINUTES OF PROCEEDINGS</u></b>
	)	
vs.	)	August 7, 2013
	)	
DR. ROBERT BANNISTER, <i>et al.</i> ,	)	
	)	
Defendants.	)	
_____	)	

PRESENT: THE HONORABLE WILLIAM G. COBB, U.S. MAGISTRATE JUDGE

DEPUTY CLERK: Katie Lynn Ogden REPORTER: FTR

COUNSEL FOR PLAINTIFF: None Appearing

COUNSEL FOR DEFENDANT(S): Micheline Fairbank

**MINUTES OF PROCEEDINGS: Motion Hearing**

1:31 p.m. Court convenes.

The Court is informed that Christopher O'Neill has declined to participate in today's hearing. Courtroom Administrator, Katie Lynn Ogden, was notified at approximately 12:30 p.m. on August 7, 2013, by Sandy Rose-Thayer, Assistant to Warden Renee Baker, that Mr. O'Neill refused to leave his cell for the pre-scheduled hearing. Mr. O'Neill further refused to sign an Acknowledgment/Refusal form that indicated his acknowledgment he was given the opportunity to attend the telephonic hearing today before Magistrate Judge Cobb, but refused (Attachment 1 to Minutes of Proceedings, "Acknowledgment/Refusal").

The Court proceeds in Plaintiff's absence and addresses Plaintiff's Motion to Compel (Dkt. #85).

Ms. Fairbank indicates that the documents Mr. O'Neill seeks in his Motion to Compel are medical records. Ms. Fairbank explains, pursuant to institutional administrative regulations, inmates are prohibited from possessing medical records; however, inmates are afforded the opportunity to review medical records and designate specific documents as attachments to motions submitted to the Court.

Ms. Fairbank further argues that it appears Mr. O'Neill has been afforded the opportunity to review his medical files, which is exhibited by the attachments to his Opposition to Defendants' Motion for Summary Judgment (Dkt. #96). Therefore, Ms. Fairbank represents,

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from the Defendants' position, this dispute is no longer at issue.

The Court notes that Plaintiff has not filed a reply to Defendants' Response (Dkt. #86) to his Motion to Compel. Furthermore, Plaintiff has failed to submit a certification demonstrating he had attempted to resolve the discovery dispute with Defendants prior to the filing of his Motion to Compel. The Court agrees it appears Mr. O'Neill was provided the opportunity to review his medical records as illustrated by Exhibit D-19 (Dkt. #96-1, pg. 32) and Exhibit L-8 (Dkt. #96-2, pg. 9) attached to his Opposition to Defendants' Motion For Summary Judgment (Dkt. #96). The Court notes that it does not appear Mr. O'Neill's inability to possess medical records in his cell has prevented him from litigating this matter or submitting his Opposition to Defendants' Motion for Summary Judgment.

For the reasons stated above, Plaintiff's Motion to Compel is **DENIED**.

**IT IS SO ORDERED.**

1:37 p.m. Court adjourns.

LANCE S. WILSON, CLERK

By: \_\_\_\_\_/s/  
Katie Lynn Ogden, Deputy Clerk